

UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/622,067	6/23/04	MORELLO, ET AL.	NAC-447

Title: **CORE INSERT AND METHOD OF USE**

Art Unit	Paper Number
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Correspondence Address:

MICHAEL H. BRODOWSKI  
TESTA, HURWITZ, & THIBEAULT, LLP.  
125 HIGH STREET  
BOSTON, MASSACHUSETTS 02110

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 535,508  
Grant Date: 25-Nov-05

**This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.**

Approved:

  
for Commissioner of Patents and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such application or applications.

This license does not empower the filing of any applications, amendments, supplements or continuances originating in this country which disclose inventions, modifications, or variations not disclosed in the subject matter identified above.

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lessen the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respect to certain countries, of other agencies, particularly the Office of Foreign Assets Control, Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Administration, Department of Commerce; and the Department of Energy.

**LICENSE FOR FOREIGN FILING**

[Title 35, United States Code (1952) Sections 184, 185, 186]



**UNITED STATES PATENT AND TRADEMARK OFFICE**

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

In re: MORELLO, et al. :DECISION ON REQUEST  
Petition Filing date: 23 June 2004 :UNDER 37 CFR 5.25  
Serial No.: 10/622,067  
Docket No.: NAC-447

Title: CORE INSERT AND METHOD OF USE

This is a decision on the petition for retroactive foreign filing license.

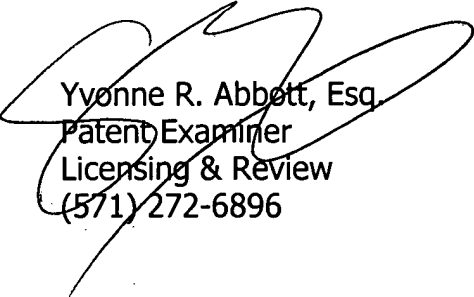
It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R. 5.11 through error and without deceptive intent.

**Foreign Filing Location**

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Canada

**Date**

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23 July 2003

  
Yvonne R. Abbott, Esq.  
Patent Examiner  
Licensing & Review  
(571) 272-6896




PATENT  
Attorney Docket No. NAC-447

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Morello et al. CONFIRMATION NO.: 1835  
SERIAL NO.: 10/622,067 GROUP NO.: 3676  
FILING DATE: July 17, 2003 EXAMINER: Not Yet Assigned  
TITLE: CORE INSERT AND METHOD OF USE

**CERTIFICATE OF FIRST CLASS MAILING UNDER 37 C.F.R. 1.8**

I hereby certify that this correspondence, and any document(s) referred to as enclosed herein, is/are being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 16<sup>th</sup> day of November, 2004.

  
Sandra Allen

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith is/are:

1. Renewed Petition for Retroactive License Under 37 C.F.R. § 5.25 (2 pgs);
2. Supplemental Verified Statement in Support of Renewed Petition for Retroactive License Under 37 C.F.R. § 5.25 (2 pgs); and a
3. Return Receipt Postcard.



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PATENT  
Attorney Docket No. NAC-447

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTORS: Morello et al.  
SERIAL NO.: 10/622,067 GROUP NO.: 3676  
FILING DATE: July 17, 2003 EXAMINER: Not Yet Assigned  
TITLE: CORE INSERT AND METHOD OF USE

**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RENEWED PETITION FOR RETROACTIVE LICENSE UNDER 37 C.F.R. § 5.25**

In accordance with 37 C.F.R. § 5.25(b), the undersigned attorney renews the petition for a retroactive license under 35 U.S.C. § 184 for the above-identified patent application.

A Decision on Request Under 37 CFR 5.25 ("Decision") was mailed from the U. S. Patent and Trademark Office on September 27, 2004. In response to the Decision, the undersigned attorney submits this Renewed Petition for Retroactive License Under 37 C.F.R. § 5.25 ("Renewed Petition") along with a Supplemental Verified Statement in Support of Renewed Petition for Retroactive License Under 37 C.F.R. § 5.25. This Renewed Petition is submitted within 60 days of the mailing date of the Decision, *i.e.*, by November 26, 2004.

The undersigned attorney thanks Examiner Abbott for discussing the Decision on October 13, 2004. As a result, the undersigned attorney submits this Renewed Petition and Supplemental Verified Statement.


The undersigned attorney believes that no fee is due for this Renewed Petition, however, if a fee is required for this submission, the Director is authorized to charge the fee to Deposit Account No. 20-0531.

The undersigned respectfully requests that this Renewed Petition be granted. If there are any questions with respect to this Renewed Petition, the Patent Office is requested to contact the undersigned attorney.

Respectfully submitted,

Dated: November 16, 2004  
Reg. No. 41,640

Tel. No.: (617) 248-7012  
Fax No.: (617) 790-0037

  
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Michael H. Brodowski  
Attorney for Applicants  
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High Street Tower  
125 High Street  
Boston, Massachusetts 02110

UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/622,067	23-Jun-04	MORELLO, ET AL.	NAC-447

Title: CORE INSERT AND METHOD AND USE

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Art Unit	Paper Number
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Correspondence Address:

MICHAEL H. BRODOWSKI  
TESTA, HURWITZ, & THIBEAULT, LLP.  
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BOSTON, MASSACHUSETTS 02110

PATENT & TRADEMARK OFFICE  
**MAILED**

SEP 27 2004

LICENSING & REVIEW

**Please find attached a communication from the Examiner regarding the  
Petition for Retroactive License under 37 CFR 5.25.**



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

In re: MORELLO, et al. :DECISION ON REQUEST  
Petition Filing date: 23 June 2004 :UNDER 37 CFR 5.25  
Serial No.: 10/622,067  
Docket No.: NAC-447

Title: CORE INSERT AND METHOD OF USE

This is a decision on the petition filed June 23, 2004 for retroactive foreign filing license.

Decision: Denied

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
  - i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
  - ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
  - iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee ( § 1.17(h)).

The above explanation must include a showing of facts rather than a mere allegation of action through error and without deceptive intent. The showing of facts as to the nature of the error should include statements by those persons responsible for or having personal knowledge of the acts regarding filing in a foreign country and should be accompanied by copies of any necessary supporting documents such as letters of transmittal or instructions for filing. The acts which are alleged to constitute error without deceptive intent should cover the period leading up to and including each of the proscribed foreign filings.

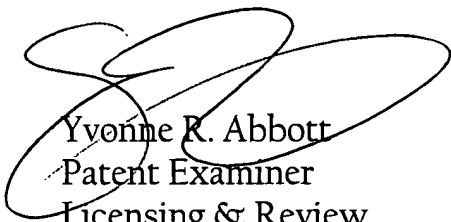
The petition is Denied at this time in that the petition is defective since the

requirements set forth in 37 C.F.R. 5.25(a)(3)(iii) have not been met.

The petition does not include a verified statement by one who actually filed the foreign patent applications, or who had personal knowledge of the acts regarding filing in a foreign country through error and without deceptive intent. Mr. Brodowski, while presently of counsel, is not considered to either have filed the applications at issue or to have personal knowledge of the acts or intent surrounding said filing as admitted in his Verified Statement in Support of Petition (p. 2) which states in relevant part "the undersigned attorney only recently became aware that the foreign filing had taken place without the required foreign filing license having first been obtained" Accordingly, his statement is inadequate to satisfy the requirements of 37 C.F.R. 5.25.

Thus, in the absence of a verified statement including an explanation or showing that the license was diligently sought, and that the foreign application was filed through error without deceptive intent, the provisions of 37 CFR 5.25 have not been met.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is DENIED, and in the absence of any response within 60 days of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).



Yvonne R. Abbott  
Patent Examiner  
Licensing & Review  
(703) 308-2866





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OFFICE OF PETITIONS

PATENT  
Attorney Docket No. NAC-447

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTORS: Morello et al.  
SERIAL NO.: 10/622,067 GROUP NO.: 3676  
FILING DATE: July 17, 2003 EXAMINER: Not Yet Assigned  
TITLE: CORE INSERT AND METHOD OF USE

RECEIVED

DEC 02 2003

GROUP 3600

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION FOR RETROACTIVE LICENSE UNDER 37 C.F.R. § 5.25

The undersigned attorney petitions for a retroactive license under 35 U.S.C. § 184 for the above-identified patent application. In accordance with 37 C.F.R. § 5.14(a), a copy of the above-identified patent application is not submitted with this Petition.

In accordance with 37 C.F.R. § 5.25(a)(1) and (2), the undersigned attorney submits that the patent application was filed with the Canadian Patent Office on July 17, 2003.

In accordance with 37 C.F.R. § 5.25(a)(3), a verified statement from the undersigned attorney is submitted herewith.

In accordance with 37 C.F.R. § 5.25(a)(4), the required fee under 37 C.F.R. § 1.17(h), i.e., \$130.00, is submitted herewith. If an additional fee is required for this submission, the Director is authorized to charge the fee to Deposit Account No. 20-0531.

The undersigned respectfully requests that this Petition be granted. If there are any

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questions with respect to this Petition, the Patent Office is requested to contact the undersigned attorney.

Respectfully submitted,

Dated: November 12, 2003  
Reg. No. 41,640

Tel. No.: (617) 248-7012  
Fax No.: (617) 790-0037

  
\_\_\_\_\_  
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